

REMARKS

In response to the Final Office Action mailed November 19, 2004 and as required by 37 C.F.R. 1.133, Applicant's attorney submits a Summary of Record of Interview with the Examiner. Applicant and Applicant's attorney wish to thank the Examiner for the personal interview which occurred on November 17, 2004 in the office of the Examiner at the United States Patent and Trademark Office.

Claims 1 – 22 were discussed. The Examiner indicated that the Keller declaration of September 14, 2004 overcame the art rejections of record. The Examiner indicated that claims limited to transformed corn plants with sorghum genomic DNA and at least one selectable marker would be allowable. The Examiner also indicated that substitution of the term "genomic DNA" of a particular size minimum for "uncharacterized" would address the 35 U.S.C. §112, second paragraph rejection regarding the term "uncharacterized".

The Examiner has rejected claims 1-22 under 35 U.S.C. §101 "because the claimed invention is not supported by either a specific or substantial asserted utility or a well established utility". Applicant has amended claims 1 and 15 as suggested by the Examiner during the interview of November 17, 2004 and has canceled claims 2, 3, 7, 9, and 10. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-22 under 35 U.S.C. §112, first paragraph, because "one skilled in the art clearly would not know how to use the claimed invention". Applicant has amended claims 1 and 15 as suggested by the Examiner during the interview of November 17, 2004 and has canceled claims 2, 3, 7, 9, and 10. Withdrawal of this rejection is respectfully requested.

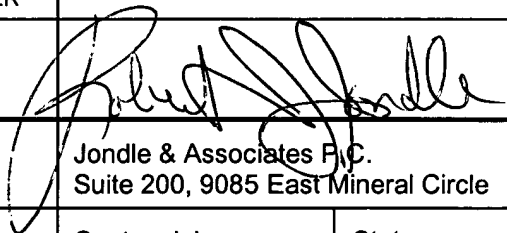
The Examiner has rejected claims 1-22 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has amended claims 1 and 15 as suggested by the Examiner during the interview of November 17, 2004 and has canceled claims 2, 3, 7, 9, and 10. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-22 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicant has amended claims 1 and 15 as suggested by the Examiner during the interview of November 17, 2004 and has canceled claims 2, 3, 7, 9, and 10. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-22 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 1 and 15 as suggested by the Examiner during the interview of November 17, 2004 and has canceled claims 2, 3, 7, 9, and 10. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1, 4, 6, 8, 11 and 13 under 35 U.S.C. §102(b) as being anticipated by Zhou et al. Applicant has amended claims 1 and 15 as suggested by the Examiner during the interview of November 17, 2004 and has canceled claims 2, 3, 7, 9, and 10. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§ 101 and 112. Reconsideration of this application and early notice of allowance is requested.

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| SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED | | | | | |
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